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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 In the Matter of the Accusation Against:

Case No. **2010-429**

14 **KAY JEANNETTE SPIER**  
1832 Walnut Avenue, No. 2  
15 Carmichael, CA 95608

**ACCUSATION**

16 **Registered Nurse License No. 655854**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 **License History**

25 2. On or about April 7, 2005, the Board of Registered Nursing issued Registered Nurse  
26 License Number 655854 to Kay Jeannette Spier ("Respondent"). The license was in full force  
27 and effect at all times relevant to the charges brought herein and will expire on February 28,  
28 2011, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code"), unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTORY PROVISIONS

7. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

1 (c) Be convicted of a criminal offense involving the prescription,  
2 consumption, or self-administration of any of the substances described in  
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
4 record pertaining to, the substances described in subdivision (a) of this section,  
5 in which event the record of the conviction is conclusive evidence thereof.

#### 6 COST RECOVERY

7 9. Code section 125.3 provides, in pertinent part, that the Board may request the  
8 administrative law judge to direct a licensee found to have committed a violation or violations of  
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
10 enforcement of the case.

#### 11 10. DRUGS

12 "Cocaine" is a Schedule II controlled substance as designated by Health and Safety Code  
13 section 11055, subdivision (6)

14 "Methamphetamine" is a Schedule II controlled substance as designated by Health and  
15 Safety Code section 11055, subdivision (d)(2).

#### 16 FIRST CAUSE FOR DISCIPLINE

##### 17 (Criminal Conviction)

18 11. Respondent is subject to disciplinary action under Code section 2761, subdivision (f),  
19 in that on or about June 23, 2009, in the Superior Court of the State of California, County of  
20 Solano, in the case entitled, *People of the State of California v. Kay Jeannette Spier* (Super Ct.  
21 Solano County, 2009, Case No. FCR261044 FF), Respondent was convicted on her plea of nolo  
22 contendere of violating Penal Code section 4573.9 (Furnishing a Controlled Substance to a  
23 Person in Custody in State Prison, to wit: Cocaine and Methamphetamine), a felony. Such crime  
24 is substantially related to the qualifications, functions, and duties of a registered nurse.

#### 25 SECOND CAUSE FOR DISCIPLINE

##### 26 (Possession of Controlled Substances)

27 12. Respondent has subjected her license to disciplinary action under Code section 2761,  
28 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,  
subdivision (a), in that Respondent possessed controlled substances, without lawful authority, as  
set forth in paragraph 11, above.

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